

Frank E. Scherkenbach (SBN 142549), scherkenbach@fr.com
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

Christopher S. Marchese (SBN 170239), marchese@fr.com
Seth M. Sproul (SBN 217711), sproul@fr.com
Fish & Richardson P.C.
12390 El Camino Real
San Diego, California 92130
Telephone: (858) 678-5070
Facsimile: (858) 678-5099

Erin E. Kaiser (SBN 259926), kaiser@fr.com
Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, California 94063
Telephone: (650) 839-5070
Facsimile: (650) 839-5071

Attorneys for Defendants and Counterclaimants
ViaSat, Inc. and Paradise Datacom, LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

APPLIED SIGNAL TECHNOLOGY, INC.

Plaintiff,

v.

EMERGING MARKETS
COMMUNICATIONS, INC.; EMC
SATCOM TECHNOLOGIES, INC.;
PARADISE DATACOM, LLC; and
VIASAT, INC.,

Defendants.

VIASAT, INC.; PARADISE DATACOM
LLC,

Counterclaimants,

v.

APPLIED SIGNAL TECHNOLOGY, INC.,

Counter-Defendant.

Case No. 09-CV-02180-SBA

**STIPULATED MOTION AND ORDER
GRANTING VIASAT, INC. LEAVE TO
FILE AMENDED PLEADING AND TO
MODIFY CASE MANAGEMENT
CONFERENCE SCHEDULE AND
ADOPTING NEW SCHEDULE**

Hon. Sandra B. Armstrong

STIPULATED MOTION & [PROPOSED] ORDER
GRANTING VIASAT, INC. LEAVE TO FILE
AMENDED PLEADING & TO MODIFY CMC
SCHEDULE & ADOPTING NEW SCHEDULE

ViaSat requests, and plaintiff Applied Signal Technology, Inc. (“AST”) and defendant Paradise Datacom, LLC (“Paradise”) (for purposes of this motion, collectively referred to as “the parties”) do not oppose,¹ that the Court grant ViaSat leave to file its First Amended Answer to Plaintiffs’ First Amended Complaint and Counterclaims, as set forth in Exhibit A to this stipulation, by which ViaSat seeks to add (1) Comtech EF Data Corporation (“Comtech”) as a third party defendant on ViaSat’s existing patents-in-suit, and (2) a claim that Comtech and AST are infringing U.S. Patent No. 6,011,952 (“the ’952 patent”). Proposed new party Comtech, which is represented by the same counsel as plaintiff AST, also hereby states that it does not oppose the amendment, including the addition of Comtech as a defendant on the two existing ViaSat patents-in-suit as well as the proposed additional ViaSat ’952 patent. In addition, the parties hereby stipulate and move the Court for an order modifying the Case Management Scheduling Order to accommodate these amendments to the pleadings as shown in the chart below (with changes to the current Case Management Schedule [Dkt. 92] indicated in italics and underlining):

<u>EVENT</u>	<u>DATE</u>
<i>ViaSat’s Infringement Contentions for ‘952 patent (Patent L.R. 3-1) and ViaSat’s Document Production Accompanying Disclosure pursuant to Patent L. R. 3-2 due</i>	May 7 ²
Comtech’s Initial Disclosure	June 16, 2010
Comtech’s Document Production (Patent L.R. 3-4) re ViaSat’s ‘093, ‘017 and <u>‘952</u> patents, and <u>AST’s Document Production (Patent L.R. 3-4) re ViaSat’s ‘952 patent</u> , due	July 9, 2010

¹ Defendants Emerging Markets Communications, Inc., and EMC Satcom Technologies, Inc. (“the EMC parties”) are not affected by the modifications to the schedule shown below, and the EMC parties do not oppose the instant stipulation and motion.

² In accordance with this proposed modified schedule, on May 7, 2010, ViaSat served on all parties and on Comtech its infringement contentions for the ’952 patent, pursuant to Patent LR 3-1, and accompanying document production, pursuant to Patent LR 3-2. ViaSat filed a notice of compliance with the Court on May 10, 2010. [Dkt. 96].

EVENT	DATE
Comtech's Invalidity Contentions (Patent L.R. 3-3) re ViaSat's '093, '017 and '952 patents, and <i>AST's Invalidity Contentions (Patent L.R. 3-3) re ViaSat's '952 patent</i> , due	July 9, 2010
EMC's Supplemental Invalidity Contentions	July 9, 2010
Comtech's Proposed Terms for Construction re ViaSat's '093, '017 and '952 patents (Patent L.R. 4-1) and <i>AST's and ViaSat's Proposed Terms for Construction re ViaSat's '952 patent (Patent L.R. 4-1)</i> , due	July 21, 2010
Preliminary Claim Constructions (Patent L.R. 4-2) due	July 28, 2010
Joint Claim Construction (Patent L.R. 4-3) due	August 18, 2010
Claim Construction Expert reports (Patent L.R. 4-3) due	August 25, 2010
L/D for discovery relating to Claim Construction (Patent L.R. 4-4)	September 15, 2010
Opening Claim Construction Brief (in compliance with Patent L.R. 4-5(a))	October 1, 2010
Opposing Claim Construction Brief(s) (in compliance with Patent L.R. 4-5(b)) due	October 21, 2010
Reply Claim Construction Brief(s) (in compliance with Patent L.R. 4-5 (c)) due	November 4, 2010
Tutorial and Claim Construction Hearing (in compliance with Patent L.R. 4-6)	December 2, 2010 @ 9:00 a.m.**
Further Case Management Conference	December 2, 2010 @ 9:00 a.m.**

The modified schedule is requested to include additional events required upon the filing of ViaSat's proposed First Amended Answer to Plaintiffs' First Amended Complaint and Counterclaims. The requested modifications will not delay any existing events on the Case Management Schedule, including the hearing on claim construction. This request to amend the

** Lead counsel for the EMC defendants currently has a trial scheduled that will conflict with the proposed December 2, 2010 Markman hearing date. The parties have agreed to select a different Markman hearing date with the cooperation of the Court if the conflict remains later in the year.

pleadings is timely because the deadline for amendment, as proposed by the parties in the Joint Cast Management Conference Statement, is not until August 27, 2010. [Dkt. 29]

ViaSat previously filed a motion for leave to file the amended pleading [Dkt 93] and AST filed a response of nonopposition. [Dkt 96]. This stipulation supersedes ViaSat's pending motions at Dkt. 93 and 94. Therefore, if the Court grants the present stipulation and proposed order, the motions at Dkt. 93 and 94 should be terminated. If the Court does not grant the present stipulation, ViaSat asks that the Court hear the motions at Dkt. 93 and 94.

Dated: May 14, 2010

FISH & RICHARDSON P.C.

/s/ Christopher S. Marchese

Christopher S. Marchese
Attorneys for Defendants/Counterclaimants
ViaSat, Inc. and Paradise Datacom, LLC

Dated: May 14, 2010

SANDERS & PARKS P.C.

/s/ Michelle Breit

Michelle Breit (SBN 133143)
Attorneys for Plaintiff and Counterclaim Defendant
APPLIED SIGNAL TECHNOLOGY, INC.

Dated: May 14, 2010

HARNESS, DICKEY & PIERCE, PLC

/s/ Rudolph Telscher

Rudolph Telscher (*Admitted Pro Hac Vice*)
Attorneys for Defendants
EMERGING MARKETS COMMUNICATIONS,
INC. and EMC SATCOM TECHNOLOGIES, INC.

DECLARATION OF CONSENT

Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under penalty of perjury that concurrence in the filing of this document has been obtained from Michelle Breit and Rudolph Telscher.

Dated: May 14, 2010

FISH & RICHARDSON P.C.

/s/ Christopher S. Marchese

Christopher S. Marchese
Attorneys for Defendants/Counterclaimants
ViaSat, Inc. and Paradise Datacom, LLC

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED that:

(1) ViaSat may file its First Amended Answer to Plaintiffs' First Amended Complaint and Counterclaims, submitted as Exhibit A to this stipulation.

(2) The April 26, 2010 "Order to Modify Case Management Conference Schedule and Adopting New Schedule" [Dkt. 92] is hereby vacated, and the following schedule is hereby adopted.

<u>EVENT</u>	<u>DATE</u>
ViaSat's Infringement Contentions for '952 patent (Patent L.R. 3-1) and ViaSat's Document Production Accompanying Disclosure pursuant to Patent L. R. 3-2 due	May 7
Comtech's Initial Disclosure	June 16, 2010
Comtech's Document Production (Patent L.R. 3-4) re ViaSat's '093, '017 and '952 patents, and AST's Document Production (Patent L.R. 3-4) re ViaSat's '952 patent, due	July 9, 2010
Comtech's Invalidity Contentions (Patent L.R. 3-3) re ViaSat's '093, '017 and '952 patents, and AST's Invalidity Contentions (Patent L.R. 3-3) re ViaSat's '952 patent, due	July 9, 2010
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Reply Claim Construction Brief(s) (in compliance	November 4, 2010

EVENT	DATE
with Patent L.R. 4-5 (c)) due	
Tutorial and Claim Construction Hearing (in compliance with Patent L.R. 4-6)	December 2, 2010 @ 9:00 a.m.**
Further Case Management Conference	December 2, 2010 @ 9:00 a.m.**

Dated: 5/13/10

By: Saundra B. Armstrong
Honorable Saundra B. Armstrong
United States District Judge

** Lead counsel for the EMC defendants currently has a trial scheduled that will conflict with the proposed December 2, 2010 Markman hearing date. The parties have agreed to select a different Markman hearing date with the cooperation of the Court if the conflict remains later in the year.